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09/777,291	02/05/2001	John Kelley	P313210	7180

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EXAMINER

BOYCE, ANDRE D

ART UNIT PAPER NUMBER

3623

DATE MAILED: 11/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/777,291

Applicant(s)

KELLEY ET AL.

Examiner

Andre Boyce

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/5/01.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-6 have been examined.

#### ***Claim Objections***

2. Claims 1-4 are objected to because of the following informalities: Claim 1 repeats "a data storage system comprising" on lines 10-11 of the claim. Claim 2 recites "id", which should be written completely out. Claim 3 recites "ISP", which should be written completely out. Claim 4 recites "URL" in lines 4-6 of the claim, the first of which should be written completely out. Claim 4 also recites "the URL the end user", which is grammatically incorrect. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the data tracking program" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the URL" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claims 5 and 6 recite the limitation "The data tracking apparatus" in line 1 of the claims. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Haitsuka et al (USPN 6,505,201).

As per claim 1, Haitsuka et al disclose a data tracking system adapted to be located on a end user's computer and track data comprising details showing internet surfing activity where the data tracking program comprises (on-line activities of a user are monitored by a client monitoring application, column 3, lines 14-19): a data retrieval system comprising, a data scanning process adapted to scan data packets (client monitoring application 110 that monitors/scans the stream of URLs transmitted by the browser, across network 120 column 8, lines 25-27), a first data storage process adapted to receive information from the data scanning process and store the data (data stores 140, column 6, lines 15-19), a data storage system comprising a database adapted to store the said data (data stores 140, figure 3), a

retrieval process comprising a connection system adapted to retrieve data from the first data storage process (monitoring server 130 uses and analyzes the information from data stores 140, column 59-63).

As per claim 2, Haitsuka et al disclose where the data comprises group id information that describes the end user (client application 110 retrieves network data, location data, interactive network data, network usage data, etc., column 5, lines 40-44).

As per claim 4, Haitsuka et al disclose a data tracking application adapted to record the internet surfing history of an end user having an internet browser that is defined by a group identification where the application (on-line activities of a user are monitored by a client monitoring application, column 3, lines 14-19) comprises: a storage system adapted to track internet surfing habits by storing the URL the end user, a data structure comprising at least one URL and the group identification associated with the URL (client monitoring application 110 can obtain tracking information by monitoring the stream of URL's transmitted by the browser, column 8, lines 25-27), a central server having a retrieval system adapted to upload the data structure and store the data structure in a database (transmit the URL to the monitoring server 130, column 9, lines 61-63).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haitsuka et al (USPN 6,505,201).

As per claims 3 and 5, Haitsuka et al does not explicitly disclose the data retrieval system is located on an ISP server providing internet connection to the end user, and the storage system resides on a server that is the end users internet service provider. However, Haitsuka discloses the client monitoring application 110 as preferably an independent application program (column 5, lines 37-40). As a result, this independent application program could not only reside on local device 100, but alternatively on web server 150 (i.e., an independent application program on a computer server) in the Haitsuka et al system. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the client application 110 on the web server 150 in the Haitsuka et al system, as an alternate location where the user URL information could be tracked, thus making the Haitsuka et al system more flexible.

As per claim 6, Haitsuka et al does not explicitly disclose the group identification is a Cookie stored on the end user's computer. However, Haitsuka discloses URL information available at a number of hardware and software levels, wherein the client application 110 can set hooks or traps at any level (column 9, lines 6-10). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the client application 110 storing Cookies in

the Haitsuka et al system, as an alternate means of retrieval of the user's URL information, thus making the Haitsuka et al system more flexible.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Howard et al (USPN 6278966) disclose generating behavior for emulated visitors traversing a web site.

-Reisman (US 2002/0124055) disclose operating a user station configured for communication with various data sources.

-Muret et al (USPN 6804701) disclose monitoring and analyzing Internet traffic.

-Shelton et al (USPN 6418471) disclose recording browser activity.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (703) 305-1867. The examiner can normally be reached on 9:30-6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
adb

  
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PRIMARY EXAMINER  
AU.3623